

## PUBLIC SAFETY OFFICERS' BENEFITS ACT OF 1976

SEPTEMBER 10, 1976.—Ordered to be printed

Mr. EILBERG, from the committee of conference, submitted  
the following

### CONFERENCE REPORT

[To accompany H.R. 366]

The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate to the text of the bill and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Public Safety Officers' Benefits Act of 1976".

SEC. 2. Title I of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new part:

#### "PART J.—PUBLIC SAFETY OFFICERS' DEATH BENEFITS

##### "PAYMENTS

"SEC. 701. (a) *In any case in which the Administration determines, under regulations issued pursuant to this part, that a public safety officer has died as the direct and proximate result of a personal injury sustained in the line of duty, the Administration shall pay a benefit of \$50,000 as follows.*

*"(1) if there is no surviving child of such officer, to the surviving spouse of such officer;*

"(2) if there is a surviving child or children and a surviving spouse, one-half to the surviving child or children of such officer in equal shares and one-half to the surviving spouse;

"(3) if there is no surviving spouse to the child or children of such officer in equal shares; or

"(4) if none of the above, to the dependent parent or parents of such officer in equal shares.

"(b) Whenever the Administration determines, upon a showing of need and prior to taking final action, that the death of a public safety officer is one with respect to which a benefit will probably be paid, the Administration may make an interim benefit payment not exceeding \$3,000 to the person entitled to receive a benefit under subsection (a) of this section.

"(c) The amount of an interim payment under subsection (b) of this section shall be deducted from the amount of any final benefit paid to such person.

"(d) Where there is no final benefit paid, the recipient of any interim payment under subsection (b) of this section shall be liable for repayment of such amount. The Administration may waive all or part of such repayment, considering for this purpose the hardship which would result from such repayment.

"(e) The benefit payable under this part shall be in addition to any other benefit that may be due from any other source, but shall be reduced by—

"(1) payments authorized by section 8191 of title 5, United States Code;

"(2) payments authorized by section 12(k) of the Act of September 1, 1916, as amended (D.C. Code, sec. 4-531(1)).

"(f) No benefit paid under this part shall be subject to execution or attachment.

#### "LIMITATIONS

"Sec. 702. No benefit shall be paid under this part—

"(1) if the death was caused by the intentional misconduct of the public safety officer or by such officer's intention to bring about his death;

"(2) if voluntary intoxication of the public safety officer was the proximate cause of such officer's death; or

"(3) to any person who would otherwise be entitled to a benefit under this part if such person's actions were a substantial contributing factor to the death of the public safety officer.

#### "DEFINITIONS

"Sec. 703. As used in this part—

"(1) 'child' means any natural, illegitimate, adopted, or posthumous child or stepchild of a deceased public safety officer who, at the time of the public safety officer's death, is—

"(A) eighteen years of age or under;

"(B) over eighteen years of age and a student as defined in section 8101 of title 5, United States Code; or

"(C) over eighteen years of age and incapable of self-support because of physical or mental disability;

"(2) 'dependent' means a person who was substantially reliant for support upon the income of the deceased public safety officer;

"(3) 'fireman' includes a person serving as an officially recognized or designated member of a legally organized volunteer fire department;

"(4) 'intoxication' means a disturbance of mental or physical faculties resulting from the introduction of alcohol, drugs, or other substances into the body;

"(5) 'law enforcement officer' means a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers;

"(6) 'public agency' means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, and any territory or possession of the United States, or any unit of local government, combination of such States, or units, or any department, agency, or instrumentality of any of the foregoing; and

"(7) 'public safety officer' means a person serving a public agency in an official capacity, with or without compensation, as a law enforcement officer or as a fireman.

#### "ADMINISTRATIVE PROVISIONS

"SEC. 704. (a) The Administration is authorized to establish such rules, regulations, and procedures as may be necessary to carry out the purposes of this part. Such rules, regulations, and procedures will be determinative of conflict of laws issues arising under this part. Rules, regulations, and procedures issued under this part may include regulations governing the recognition of agents or other persons representing claimants under this part before the Administration. The Administration may prescribe the maximum fees which may be charged for services performed in connection with any claim under this part before the Administration, and any agreement in violation of such rules and regulations shall be void.

"(b) In making determinations under section 701, the Administration may utilize such administrative and investigative assistance as may be available from State and local agencies. Responsibility for making final determinations shall rest with the Administration".

#### MISCELLANEOUS PROVISIONS

SEC. 3. Section 520 of the Omnibus Crime Control and Safe Streets Act of 1968, as amended, is amended by adding at the end thereof the following new subsection:

"(c) There are authorized to be appropriated in each fiscal year such sums as may be necessary to carry out the purposes of part J."

SEC. 4. The authority to make payments under part J of the Omnibus Crime Control and Safe Streets Act of 1968 (as added by section 2 of this Act) shall be effective only to the extent provided for in advance by appropriation Acts.

SEC. 5. If the provisions of any part of this Act are found invalid, the provisions of the other parts and their application to other persons or circumstances shall not be affected thereby.

*SEC. 6. The amendments made by this Act shall become effective and apply to deaths occurring from injuries sustained on or after the date of enactment of this Act.*

And the Senate agree to the same.

That the Senate recede from its amendment to the title of the bill.

PETER W. RODINO.

JOSHUA EILBERG.

PAUL S. SARBANES.

JOHN F. SEIBERLING.

TOM RAILSBACK.

HAMILTON FISH, Jr.

*Managers on the Part of the House.*

JOHN L. MCCLELLAN.

PHILIP A. HART.

EDWARD M. KENNEDY.

ROMAN L. HRUSKA.

STROM THURMOND.

*Managers on the Part of the Senate.*



## JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 366), to amend the Omnibus Crime Control and Safe Streets Act of 1968, as amended, to provide benefits to certain public safety officers who die in the performance of duty, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for both the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the Conferees, and minor drafting and clarifying changes.

### OCCUPATIONAL COVERAGE

The House bill provided a \$50,000 death benefit to the survivors of law enforcement officers who die in the performance of duty.

The Senate amendment provided a \$50,000 death benefit to the survivors of both law enforcement officers and firemen who die in the line of duty.

The Conference substitute conforms to the Senate amendment.

The Managers believe that coverage should be provided to both categories of public safety officers (law enforcement officers and firemen); and it is noted that the House approved separate legislation (H.R. 365) which would have provided a similar benefit to firemen.

### SCOPE OF COVERAGE

The House bill authorized payment if the public safety officer's death was the result of a personal injury sustained in the line of certain hazardous duties which are specified in the bill. Such duties included: apprehending or guarding criminals; preventing crime; and other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous. The parallel House bill for firemen (H.R. 365) authorized payment whenever a fireman sustained fatal injuries while actually and directly engaged in fighting fires or in other activities determined by the Law Enforcement Assistance Administration to be potentially dangerous.

The Senate amendment authorized payment of the death benefit to the survivors of law enforcement officers and firemen for all line of duty deaths.

The Conference substitute conforms to the Senate amendment.

The Managers believe that "line of duty" is a well established concept and that it is appropriate to extend coverage to all acts performed by the public safety officer in the discharge of those duties which are required of him in his capacity as a law enforcement officer or as a fireman.

#### DEFINITION OF "LAW ENFORCEMENT OFFICER"

The House bill defined "law enforcement officer" to specifically include police, corrections, probation, and parole officers as well as officials engaged in programs relating to the prevention, control, and reduction of juvenile delinquency or narcotics addiction.

The Senate amendment defined "law enforcement officer" to specifically include police, corrections, probation, parole, and judicial officers.

The Conference substitute is a combination of both the House and Senate definitions. It defines "law enforcement officer" to mean "a person involved in crime and juvenile delinquency control or reduction, or enforcement of the criminal laws. This includes, but is not limited to, police, corrections, probation, parole, and judicial officers."

The Managers have not expressly included officials engaged in programs relating to narcotics addiction. It is, however, the intent of the Managers that the definition of "law enforcement officer" be construed to cover such individuals if they are exposed, on a regular basis, to criminal offenders such as those responsible for screening arrestees or prisoners for possible diversion into drug treatment programs.

#### DEPENDENCY TEST

The House bill required survivors of the public safety officer (other than children who are a defined category) to be dependent for more than one half of their support on the public safety officer in order to be eligible for the death benefit.

The Senate amendment provided that only a parent must be dependent on the public safety officer in order to be eligible for the death benefit, and "dependent" is defined as being "substantially reliant for support upon the income of the deceased public safety officer".

The Conference substitute conforms to the Senate amendment. It was felt that the Senate provision was more flexible than that contained in the House bill, and the Managers agreed that the language contained in the Conference substitute should be liberally interpreted.

#### EFFECTIVE DATE FOR DEATH BENEFITS

The House bill provided that death benefits shall apply with respect to any eligible public safety officer who dies as the direct and proximate result of a personal injury sustained on or after October 11, 1972.

The Senate amendment provided that the bill would become effective for deaths resulting from injuries sustained on or after the date of enactment of the bill.

The Conference substitute conforms to the Senate amendment.

## GROUP LIFE INSURANCE PROGRAM

The Senate amendment contained provisions establishing a Group Life Insurance Program for public safety officers.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment.

## VICTIMS OF CRIME

The Senate amendment contained provisions authorizing Federal funds to compensate the victims of crime.

The House bill contained no comparable provision.

The Conference substitute does not include the provisions contained in the Senate amendment, and the Managers agreed that this subject should be handled through separate legislation.

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